

FIRST REGULAR SESSION

SENATE BILL NO. 708

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHOEMYER.

Read 1st time March 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2571S.011

AN ACT

To repeal sections 8.420, 173.360, 173.385, and 173.425, RSMo, and to enact in lieu thereof seven new sections relating to higher education, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 8.420, 173.360, 173.385, and 173.425, RSMo, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections
3 8.420, 173.360, 173.377, 173.385, 173.406, 173.425, and 360.200, to read as
4 follows:

8.420. 1. Bonds issued under and pursuant to the provisions of sections
2 8.370 to 8.450 shall be of such denomination or denominations, shall bear such
3 rate or rates of interest not to exceed fifteen percent per annum, and shall mature
4 at such time or times within forty years from the date thereof, as the board
5 determines. The bonds may be either serial bonds or term bonds.

6 2. Serial bonds may be issued with or without the reservation of the right
7 to call them for payment and redemption in advance of their maturity, upon the
8 giving of such notice, and with or without a covenant requiring the payment of
9 a premium in the event of such payment and redemption prior to maturity, as the
10 board determines.

11 3. Term bonds shall contain a reservation of the right to call them for
12 payment and redemption prior to maturity at such time or times and upon the
13 giving of such notice, and upon the payment of such premium, if any, as the board
14 determines.

15 4. The bonds, when issued, shall be sold at public sale for the best price
16 obtainable after giving such reasonable notice of such sale as may be determined

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 by the board, but in no event shall such bonds be sold for less than ninety-eight
18 percent of the par value thereof, and accrued interest. Any such bonds may be
19 sold to the United States of America or to any agency or instrumentality thereof,
20 at a price not less than par and accrued interest, without public sale and without
21 the giving of notice as herein provided.

22 5. The bonds, when issued and sold, shall be negotiable instruments
23 within the meaning of the law merchant and the negotiable instruments law, and
24 the interest thereon shall be exempt from income taxes under the laws of the
25 state of Missouri.

26 6. The board shall not issue revenue bonds pursuant to the provisions of
27 sections 8.370 to 8.450 for one or more projects, as defined in section 8.370, in
28 excess of a total par value of [seven hundred seventy-five] **one billion one**
29 **hundred twenty-six** million dollars.

30 7. Any bonds which may be issued pursuant to the provisions of sections
31 8.370 to 8.450 shall be issued only for projects which have been approved by a
32 majority of the house members and a majority of the senate members of the
33 committee on legislative research of the general assembly, and the approval by
34 the committee on legislative research required by the provisions of section 8.380
35 shall be given only in accordance with this provision. For the purposes of
36 approval of a project, the total amount of bonds issued for purposes of energy
37 retrofitting in state-owned facilities shall be treated as a single project.

173.360. In order to assure that all eligible postsecondary education
2 students have access to **low cost** student loans that are guaranteed or insured,
3 or both, **and to have access to grants and scholarships to the extent**
4 **practicable** there is hereby created a body politic and corporate to be known as
5 the "Higher Education Loan Authority of the State of Missouri". **Ensuring that**
6 **all eligible postsecondary education students have access to low cost**
7 **student loans that are guaranteed or insured, or both, and to have**
8 **access to grants, scholarships, and loan forgiveness programs to the**
9 **extent practicable shall be the priority of the authority.** The authority
10 is hereby constituted a public instrumentality and body corporate, and the
11 exercise by the authority of the powers conferred by sections 173.350 to 173.450
12 shall be deemed to be the performance of an essential public function. The
13 authority shall consist of seven members, five of whom shall be appointed by the
14 governor by and with the advice and consent of the senate, each of whom shall be
15 a resident of the state; and a member of the coordinating board; and the

16 commissioner of higher education. In making appointments to the authority, the
17 governor shall take into consideration nominees recommended to him for
18 appointment by the chairman of the coordinating board. Two of the appointed
19 members shall be representatives of higher education institutions, one public and
20 one private, in Missouri, two of the appointed members shall be representatives
21 of lending institutions in Missouri, and one of the appointed members shall be
22 representative of the public. The members of the authority first appointed by the
23 governor shall be appointed to serve for terms of one, two, three, four and five
24 years, respectively, from the date of appointment, or until their successors shall
25 have been appointed and shall have qualified. The initial term of each member
26 is to be designated by the governor at the time of making the appointment. Upon
27 the expiration of the initial terms of office, successor members shall be appointed
28 for terms of five years and shall serve until their successors shall have been
29 appointed and shall have qualified. Any member shall be eligible for
30 reappointment. The governor shall fill any vacancy in the authority for the
31 members he appoints for the remainder of the unexpired term. Any member of
32 the authority may be removed by the governor for misfeasance, malfeasance,
33 willful neglect of duty, or other cause after notice and a public hearing unless the
34 notice or hearing shall be expressly waived in writing.

**173.377. The board and its members owe a fiduciary duty to
2 postsecondary students to ensure that all eligible postsecondary
3 education students have access to low cost student loans that are
4 guaranteed or insured, or both, and to have access to grants,
5 scholarships, and loan forgiveness programs to the extent practicable.
6 In determining whether the board and its members have exercised the
7 judgment required of them as board members and have exercised due
8 diligence in their duties as board members, this fiduciary duty shall be
9 the sole criterion.**

173.385. The authority shall have the following powers, together with all
2 powers incidental thereto or necessary for the performance thereof:

- 3 (1) To have perpetual succession as a body politic and corporate;
- 4 (2) To adopt bylaws for the regulation of its affairs and the conduct of its
5 business;
- 6 (3) To sue and be sued and to prosecute and defend, at law or in equity,
7 in any court having jurisdiction of the subject matter and of the parties;
- 8 (4) To have and to use a corporate seal and to alter the same at pleasure;

9 (5) To maintain an office at such place or places in the state of Missouri
10 as it may designate;

11 (6) To issue bonds or other forms of indebtedness to obtain funds to
12 purchase student loan notes or finance student loans, or both, including those
13 which are guaranteed under the provisions of sections 173.095 to 173.187, or
14 under the provisions of the federal Higher Education Act of 1965, as amended, or
15 secondary education loans, or scholarships which have been converted to loans
16 under the Missouri teacher education scholarship program provided for in
17 sections 160.276 to 160.283, RSMo. Such bonds or other forms of indebtedness
18 shall be payable from and secured by a pledge of revenues derived from or by
19 reason of the ownership of student loan notes or financing of student loans, or
20 both, and investment income or shall be payable from and secured as may be
21 designated in a bond resolution authorized by the authority. Such bonds or other
22 forms of indebtedness shall not constitute a debt or liability of the state of
23 Missouri or of any political subdivision thereof;

24 (7) To cause proceeds of any bond or any other form of indebtedness to be
25 used to purchase student loan notes or finance student loans, or both, including
26 those which are guaranteed under section 173.110, or guaranteed under the
27 federal Higher Education Act of 1965, as amended, or secondary education loans,
28 or scholarships which have been converted to loans under the Missouri teacher
29 education scholarship program provided for in sections 160.276 to 160.283, RSMo;

30 (8) To sell or enter into agreements to sell student loan notes acquired
31 pursuant to subdivision (7) of this section, and any agreement to sell student loan
32 notes guaranteed under section 173.110 shall be subject to prior approval of the
33 department. [Such agreements to sell student loan notes shall be limited only by
34 the terms of the bond resolution authorizing the issue of the bonds or other forms
35 of indebtedness, but shall not be limited by any other provision of law limiting
36 the sale of such student loan notes] **Any sale under this subdivision shall be**
37 **solely limited to furthering the fiduciary duty placed upon the board**
38 **by section 173.377 and by the terms of the bond resolution authorizing**
39 **the issue of bonds or other forms of indebtedness;**

40 (9) To accept appropriations, gifts, grants, bequests, and devises and to
41 utilize or dispose of the same to carry out its purpose;

42 (10) To make and execute contracts, releases, compromises, and other
43 instruments necessary or convenient for the exercise of its powers, or to carry out
44 its purpose;

45 (11) To collect reasonable fees and charges in connection with making and
46 servicing its loans, notes, bonds, obligations, commitments, and other evidences
47 of indebtedness, and in connection with providing technical, consultative and
48 project assistant services. Such fees and charges shall be used to pay the costs
49 of the authority;

50 (12) To invest any funds not required for immediate disbursement in
51 obligations of the state of Missouri or of the United States government or any
52 instrumentality thereof, the principal and interest of which are guaranteed by the
53 state of Missouri, or the United States government or any instrumentality
54 thereof, or certificates of deposit or time deposits of federally insured banks, or
55 federally insured savings and loan associations or of insured credit unions, or,
56 with respect to moneys pledged or held under a trust estate or otherwise
57 available for the owners of bonds or other forms of indebtedness, any investment
58 authorized under the bond resolution governing the security and payment of such
59 obligations or repurchase agreements for the specified investments;

60 (13) To acquire, hold and dispose of personal property for its purposes;

61 (14) To enter into agreements or other transactions with any federal or
62 state agency, any person and any domestic or foreign partnership, corporation,
63 association or organization;

64 (15) To take any necessary actions to be qualified to issue tax-exempt
65 bonds or other forms of tax-exempt indebtedness pursuant to the applicable
66 provisions of the Internal Revenue Code of 1986, as amended;

67 (16) To take any necessary actions to be qualified to issue bonds or other
68 forms of indebtedness, the interest on which is not exempt from federal income
69 taxation;

70 (17) To service student loans for any owner thereof, regardless of whether
71 such student loans are originated in this state or out of this state.

**173.406. 1. The authority shall, no later than August 28, 2007,
2 transfer an amount equal to two hundred ten million dollars to the
3 MOHELA Scholarship Fund, created under this section.**

**4 2. The authority shall, no later than the first Wednesday after the
5 first Monday in January of each year, annually transfer an amount to
6 the fund that is not less than twenty million dollars but does not exceed
7 one and one half percent of the assets of the authority. The amount to
8 be transferred shall be annually determined by the board after careful
9 examination of all pertinent financial data relating to the future**

10 viability of the authority. Notwithstanding any other provision of this
11 section to the contrary, the board shall not transfer any amount to the
12 fund that the board determines may jeopardize the future viability of
13 the authority. For purposes of this section, "assets of the authority"
14 shall mean any asset or investment of any kind owned by the authority,
15 including, but not limited to, any student loan, any income or revenues
16 derived from any asset or investment owned by the authority, any
17 funds, income, fees, revenues, proceeds of all bonds, or other forms of
18 indebtedness.

19 3. There is hereby created in the state treasury the "MOHELA
20 Scholarship Fund". The state treasurer shall be custodian of the fund
21 and shall disburse moneys from the fund in accordance with this
22 section. Upon appropriation, moneys in the fund shall be used solely
23 for the purpose of funding higher education scholarships and grants,
24 as determined by the general assembly each fiscal
25 year. Notwithstanding the provisions of section 33.080, RSMo, to the
26 contrary, any moneys remaining in the fund at the end of the biennium
27 shall not revert to the credit of the general revenue fund. The state
28 treasurer shall invest moneys in the fund in the same manner as other
29 funds are invested. Any interest and moneys earned on such
30 investments shall be credited to the fund.

31 4. Moneys from the general revenue fund shall annually be used
32 to pay debt service on bonds issued by the state under the provisions
33 of section 360.200, RSMo, for capital projects at institutions of higher
34 education in an amount not to exceed the amount of general revenue
35 appropriated to fund higher education scholarships in fiscal year 2007.

173.425. The proceeds of all bonds or other forms of indebtedness issued
2 by the authority and of all fees permitted to be charged by the authority and of
3 other revenues derived shall not be considered to be part of the revenue of the
4 state within the meaning of article III, section 36, of the Constitution of Missouri,
5 shall not be required to be deposited into the state treasury, and shall not be
6 subject to appropriation by the general assembly. **All proceeds, fees, and**
7 **revenues shall be used only for administering student loans, lowering**
8 **student loan rates, forgiving student loans, funding scholarships and**
9 **grants, and for the proper administration of the authority.** The proceeds,
10 fees, and revenue shall remain under the exclusive control and management of
11 the authority to be used as required pursuant to sections 173.350 to

12 173.450. Student loan notes purchased or financed shall not be considered to be
13 public property.

**360.200. 1. The general assembly approves, pursuant to section
2 21.527, RSMo, the following projects for research, academic and related
3 facilities to be funded in part by revenue bonds to be paid out of future
4 appropriations to be made by the general assembly. The projects, the
5 amount for each project to be paid from the revenue bonds and the
6 total project cost, including furnishings and equipment, are to be as
7 follows:**

8 (1) The Morrow/Garrison project at Central Missouri State
9 University in an amount equal to thirteen million two hundred twenty-
10 nine thousand dollars;

11 (2) The CORTEX Accelerator Facility at Harris-Stowe State
12 University in an amount equal to five million five hundred thousand
13 dollars;

14 (3) The Early Childhood and Parent Education Center at Harris-
15 Stowe State University in an amount equal to ten million two hundred
16 twenty-six thousand dollars;

17 (4) The Jason Hall project at Lincoln University in an amount
18 equal to two million nine hundred seventy-four thousand dollars;

19 (5) The Health Sciences Building at Missouri Southern State
20 University in an amount equal to eighteen million nine hundred
21 seventy-six thousand dollars;

22 (6) The Facilities Reutilization Plan at Missouri State University
23 in an amount equal to twenty-nine million seven hundred four thousand
24 dollars;

25 (7) The Business Incubator at Missouri State University in an
26 amount equal to five million dollars;

27 (8) The Agenstein Science and Math, Phase I project at Missouri
28 Western State University in an amount equal to thirty million one
29 hundred fifteen thousand dollars;

30 (9) The Center for Plant Biologics at Northwest Missouri State
31 University in an amount equal to eleven million four hundred thousand
32 dollars;

33 (10) The Business Incubator at Southeast Missouri State
34 University in an amount equal to four million five hundred thousand
35 dollars;

36 (11) The River Campus at Southeast Missouri State University in
37 an amount equal to seventeen million two hundred thousand dollars;

38 (12) The Pershing Building at Truman State University in an
39 amount equal to twenty-one million five hundred fifty-eight thousand
40 dollars;

41 (13) The Health Sciences Research and Education Center at the
42 University of Missouri-Columbia in an amount equal to eighty-five
43 million twenty-nine thousand dollars;

44 (14) The Business Incubator at the University of Missouri-
45 Columbia in an amount equal to two million dollars;

46 (15) The Plant Science Research Center at the University of
47 Missouri-Columbia in an amount equal to three million dollars;

48 (16) The Greenley Learning and Discovery Park at the University
49 of Missouri-Columbia in an amount equal to two million dollars;

50 (17) The Delta Research Center and Plant Science Greenhouse
51 at the University of Missouri-Columbia in an amount equal to two
52 million dollars;

53 (18) The Business Incubator at the University of Missouri-Kansas
54 City in an amount equal to twelve million dollars;

55 (19) The Health Sciences Center at the University of Missouri-
56 Kansas City in an amount equal to three million dollars;

57 (20) The School of Dentistry at the University of Missouri-Kansas
58 City in an amount equal to three million four hundred thousand
59 dollars;

60 (21) The Toomey Hall project at the University of Missouri-Rolla
61 in an amount equal to eleven million dollars;

62 (22) The Center for Emerging Technologies II at the University
63 of Missouri-St. Louis in an amount equal to five million five hundred
64 thousand dollars;

65 (23) The Benton/Stadler Halls project at the University of
66 Missouri-St. Louis in an amount equal to eighteen million dollars;

67 (24) The satellite building at the Moberly Area Community
68 College in an amount equal to four million dollars;

69 (25) The Hannibal Area Higher Education Center in an amount
70 equal to four million dollars;

71 (26) To the twelve public community colleges of this state in
72 amount equal to twelve million dollars to be divided equally among the

73 twelve public community colleges of this state and an amount equal to
74 six million dollars for maintenance and repair at the twelve public
75 community colleges in the following amounts:

76 (a) Crowder College in an amount equal to two hundred one
77 thousand five hundred eighteen dollars;

78 (b) East Central College in an amount equal to two hundred
79 thirty-three thousand nine hundred seven dollars;

80 (c) Jefferson College in an amount equal to three hundred forty-
81 three thousand two hundred five dollars;

82 (d) Metropolitan Community College in an amount equal to one
83 million four hundred twenty-five thousand eight hundred forty dollars;

84 (e) Mineral Area College in an amount equal to two hundred
85 twenty-four thousand eight hundred sixty one dollars;

86 (f) Moberly Area Community College in an amount equal to two
87 hundred twenty-one thousand two hundred forty-three dollars;

88 (g) North Central Missouri College in an amount equal to one
89 hundred eleven thousand three dollars;

90 (h) Ozarks Technical Community College in an amount equal to
91 four hundred thirty thousand six hundred fifty-eight dollars;

92 (i) St. Charles Community College in an amount equal to three
93 hundred twenty-four thousand seven hundred twenty-six dollars;

94 (j) St. Louis Community College in an amount equal to two
95 million fifty thousand two hundred thirty-three dollars;

96 (k) State Fair Community College in an amount equal to two
97 hundred thirty-eight thousand four hundred fourteen dollars;

98 (l) Three Rivers Community College in an amount equal to one
99 hundred ninety-four thousand three hundred ninety-two dollars.

100 2. In addition to the powers granted the authority pursuant to
101 the provisions of sections 360.010 to 360.140, the health and educational
102 facilities authority of the state of Missouri may issue bonds not to
103 exceed three hundred fifty-six million dollars in principal amount to
104 fund a portion of the cost of such projects and related facilities. The
105 bonds required pursuant to this section shall be subject to the
106 provisions of sections 360.010 to 360.140 as if they were issued pursuant
107 to the authority's bonding power pursuant to section 360.047.

108 3. It is the present intent of the general assembly to appropriate
109 funds sufficient to pay debt service on such revenue bonds beginning

110 in fiscal year 2011 of the state of Missouri. The general assembly is not
111 bound to make any such appropriations and the general assembly could
112 by further legislative action authorize such payments prior to such
113 fiscal year.

Section B. Because of the need to provide affordable higher education
2 funding for the students of this state, section A of this act is deemed necessary
3 for the immediate preservation of the public health, welfare, peace and safety,
4 and is hereby declared to be an emergency act within the meaning of the
5 constitution, and section A of this act shall be in full force and effect upon its
6 passage and approval.

Unofficial ✓

Bill

Copy